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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/587,544	06/05/2000	John S. Bibb	00-318	9972

7590

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EXAMINER

BOTTORFF, CHRISTOPHER

ART UNIT	PAPER NUMBER
3618	

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/587,544

Applicant(s)

BIBB ET AL.

Examiner

Christopher Bottorff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-15 is/are allowed.
- 6) ☒ Claim(s) 1, 9, 16 and 17 is/are rejected.
- 7) ☒ Claim(s) 2-6, 8, 10 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

In view of the appeal brief filed on April 9, 2003, PROSECUTION IS HEREBY REOPENED. New grounds of rejection set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

The after final amendment filed July 15, 2003 has been entered. Claims 1-6 and 8-18 are pending. This office action is NOT final.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 9, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips US 4,124,226 in view of Reinicker et al. US 4,342,335.

Phillips discloses a method of retracting a stabilizer leg for a work machine. The work machine is operatively associated with a power source PS and has a control device for selecting forward or reverse directions of movement for the work machine. See Figure 1; column 3, lines 56-65; and column 7, line 27. The method comprises utilizing a pair of control levers 75, 77 for moving a pair of stabilizer legs 32, 33 between fully extended and fully retracted positions. See Figure 6; column 6, line 63, through column 7, line 2; and column 7, line 54, through column 8, line 5. The control levers are normally located in and biased to a neutral position. The control levers are each manually moved to either an extended position or a retracted position, and are manually held in either of the extended or retracted positions to respectively extend or retract the respective stabilizer leg to any of a plurality of positions between the fully extended and fully retracted positions.

Phillips does not disclose that the control levers can be manually moved to an auto-retract position and retained in the auto-retract position through a responsive means that overcomes the biasing action for moving the legs from any of the plurality of extended or retracted positions to the fully retracted position.

However, Reinicker et al. teaches that the practice of manually moving a control lever 10 to an auto-retract position and retaining the lever in the auto-retract position through a responsive means 34 that overcomes a biasing action that biases the lever to a neutral position was old and well known in the art at the time the invention was made. See Figure 1; column 1, lines 21-26; and column 3, lines 28-38. From the teachings of Reinicker et al., enabling the control levers of Philips to be manually moved to an auto-

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retract position and retained in the auto-retract position through a responsive means that overcomes the biasing action for moving the legs from any of the plurality of extended or retracted positions to the fully retracted position would have been obvious to one of ordinary skill in the art at the time the invention was made. This will allow an operator to retract the legs while his hand is removed from the lever.

### ***Allowable Subject Matter***

Claims 11-15 are allowed. Claim 11 defines a pair of pilot valves in combination with a pair of control levers having a means for automatically retaining the control levers in the third position. The prior art hydraulic systems, as exemplified by Philips, utilize a single pilot valve 59 to regulate the flow of fluid in the system.

Claims 2-6, 8, 10, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 2, 10, and 18 define the activation of a time delay mechanism. Claim 6 defines a pair of pilot valves. Claim 8 defines the single control lever as controlling two stabilizer legs. These features, in combination with the further limitations of the claims, distinguish the claimed invention over the prior art.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Becker et al., Bull, Woodard, Petro, and Inagaki disclose control

levers that are biased to a neutral position, are manually movable in first and second operating positions, and lock in a third position.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (703) 308-2183. The examiner can normally be reached on Mon.-Fri. 7:30 a.m. - 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson can be reached on (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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3/19/04